

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
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	)	
Effects of Communications Towers on	)	WT Docket No. 03-187
Migratory Birds	)	
	)	

To: The Commission

**COMMENTS OF MARANATHA BROADCASTING COMPANY, INC.<sup>1</sup>**

Maranatha Broadcasting Company, Inc. (“MBC”), licensee of independent television broadcast station WFMZ-TV, Channel 69, Allentown, Pennsylvania (and WFMZ-DT), hereby responds to the FCC’s *Notice of Proposed Rule Making*, FCC No. 06-164, released November 7, 2008 (the “*NPRM*”), concerning the effects of communications towers on migratory birds. In the *NPRM*, the FCC tentatively concludes that “medium intensity white strobe lights . . . [are] to be considered the preferred system over red obstruction lighting systems to the maximum extent possible without compromising safety.” *NPRM*, ¶ 3. In particular, the FCC also asks (*NPRM*, ¶ 47), what action should be taken regarding the lighting of existing towers, e.g., whether existing tower lighting specifications set forth on station licenses should be re-evaluated (by the FCC and the FAA), and whether existing red obstruction lights should be replaced or within a specific time frame. The *NPRM* also

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<sup>1</sup> These comments were originally submitted through the FCC’s electronic comment filing system on April 23, 2007. Notwithstanding several attempts, we were unable to proceed beyond the “confirm this transaction and receive confirmation message.” Acceptance as timely filed is respectfully requested.

asks for comments concerning possible marking requirements for tower guy wires, including those on existing towers (*NPRM*, ¶ 55). As the licensee of WFMZ-TV, and the owner of a guyed communications tower with an overall height of 740 feet above ground level, MBC's primary concern is the FCC's proposed application of new regulations to existing towers (although those regulations, particularly restrictions on tower height, could also have significant implications for the adoption of different transmission models for delivery of digital television broadcast signals).

In this rule making proceeding, the FCC must be very careful not to make decisions reflecting (A) "checkbook" conservationism, (B) "check-list" conservationism, or (C) "feel-good" conservationism. "Checkbook" conservationism would be action which imposes costs on communications licensees with little and in many cases no consequent reduction in the effects of communications towers on migratory birds. "Check-list" conservationism would include re-authorization procedures (e.g, new aeronautical hazard studies) and reporting requirements, accompanied by expenses, delays and uncertainty without regard to the existence of documented instances of significant effects on migratory birds. "Feel-good" conservationism would be the adoption, to satisfy conservation groups and other governmental agencies, of measures that systematic, peer-reviewed scientific research has not confirmed to have any direct correlation with significant adverse effects on bird populations.

WFMZ-TV has operated from its present transmitter location since 1976. In addition to WFMZ-TV, the tower accommodates the antennas of several other radio and television

stations and other communications services.<sup>2</sup> It is marked with standard steady-burning red obstruction lights required under FAA regulations. Recently, MBC replaced the incandescent lamps with LED obstruction lights, which (in addition to using less energy and requiring less maintenance) are thought to be less likely to interfere with birds' direction-finding mechanisms. The tower site is shared with the studios and offices of WFMZ-TV and its affiliated companies. During all that time, MBC management and employees have never observed any significant number of bird carcasses attributable to collisions with the tower. To the contrary, over that period, there have been only a relative handful of bird fatalities, generally no more than one or two a year.

Under no circumstances can this minimal number of avian fatalities be considered "significant," let alone justify the costs, regulatory burdens and uncertainty that would be imposed on MBC by requiring replacement of the existing lighting system and/or re-opening of its FAA no-hazard determination. (To illustrate the uncertainty inherent in any application of new lighting requirements to existing towers, current FAA guidelines do not recommend white strobe lights in urban areas or in close proximity to airports, and do not permit *red* strobe lighting or blinking red obstruction lights except in conjunction with steady-burning red lights.<sup>3</sup>)

There is no reason to believe that installation of new lighting on the WFMZ-TV tower, or attaching markers to the guy wires, would have *any* effect on the number of bird

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<sup>2</sup> Prior to the construction of the television station, the site accommodated the transmission tower of a co-owned FM station.

<sup>3</sup> Presumably, no one suggests that aeronautical safety requirements should be compromised to achieve marginal – if any – reductions in the number of migratory birds that collide with communications towers.

fatalities resulting from collisions with the tower. Birds collide with towers already marked with white strobe lights, with towers that are not guyed , and with towers that are less than 200 feet tall. Not only are there no standardized studies showing a direct correlation between communications towers and bird populations, the causes of major “events” are not understood, and the (largely anecdotal) evidence that exists shows that such events are episodic (not regularly recurring) and geographically isolated.<sup>4</sup>

A blanket extension of new tower lighting and guy wire-marking requirements to existing towers, therefore, would represent the worst of “checkbook,” “check-list” and “feel-good” conservationism: the imposition of costs and regulatory burdens on licensees in the absence of any demonstrated need for new rules, or reliable scientific studies confirming either the link between communications towers and significant adverse effects on bird populations or the efficacy of the proposed solutions.

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<sup>4</sup> Different species have different flyways, some species appear to be more likely to collide with towers than others, and so on.

For the foregoing reasons, the FCC should not adopt any new regulations regarding the lighting, marking or environmental effects of communications towers at this time.

Respectfully submitted,

MARANATHA BROADCASTING  
COMPANY, INC.

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April 23, 2007